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Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MARK STEVEN GOLDSTEIN
P.O. Box 2259
Manhattan Beach, CA 90267-2259

Respondent.

Case No. AC-2004-8

OAH No. L-2004030251

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Carol Sigmann (Complainant) is the Executive Officer of the California Board of Accountancy. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Marc D. Greenbaum, Deputy Attorney General.

2. Respondent, Mark Steven Goldstein, (Respondent) has chosen to be represented in this proceeding by Charles Benninghoff, whose address is Professional Advocates of Benninghoff & Ramirez, 31897 Del Obispo, Suite 220, San Juan Capistrano, CA 92675.

3. On or about December 4, 1981, the California Board of Accountancy issued Certified Public Accountant Certificate No. CPA 33368 to Respondent.

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JURISDICTION

4. Accusation No. AC-2004-8 was filed before the California Board of Accountancy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 10, 2004. Respondent timely filed his Notice of Defense. A copy of Accusation No. AC-2004-8 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2004-8. Respondent has also carefully read, fully discussed with his representative, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2004-8.

9. Respondent agrees that his Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the California Board of Accountancy or other

1 professional licensing agency is involved, and shall not be admissible in any other criminal or
2 civil proceeding.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the California Board of
5 Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of
6 the California Board of Accountancy may communicate directly with the Board regarding this
7 stipulation and settlement, without notice to or participation by Respondent or his representative.
8 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
9 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
10 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
11 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
12 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
13 further action by having considered this matter.

14 12. The parties understand and agree that facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
16 force and effect as the originals.

17 13. In consideration of the foregoing admissions and stipulations, the parties
18 agree that the Board may, without further notice or formal proceeding, issue and enter the
19 following Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. CPA
22 33368 issued to Respondent, Mark Steven Goldstein, is revoked. However, the revocation is
23 stayed and Respondent is placed on probation for three (3) years on the following terms and
24 conditions.

25 1. **Suspension.** Respondent's CPA Certificate is suspended for ninety (90)
26 consecutive days commencing on the effective date of this decision. During the period of
27 suspension, the respondent shall engage in no activities for which certification as a Certified
28 Public Accountant or Public Accountant is required as described in Business and Professions

Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

7. **Comply With Citations.** Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event Respondent should leave California to reside or practice outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or

1 of any suspension. No obligation imposed herein, including requirements to file written reports,
2 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
3 affected by such periods of out-of-state residency or practice except at the written direction of the
4 Board.

5 9. **Violation of Probation.** If Respondent violates probation in any respect,
6 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
7 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
8 probation is filed against Respondent during probation, the Board shall have continuing
9 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
10 is final.

11 10. **Completion of Probation.** Upon successful completion of probation,
12 Respondent's license will be fully restored.

13 11. **Register Accountancy Corporation with Board.** Within thirty (30) days
14 of the effective date of this decision, Respondent shall register his accountancy corporation with
15 the Board.

16 12. **Ethics Course/Examination.** Respondent shall take and pass with a score
17 of 90 percent or better a Board approved ethics examination within 180 days form the effective
18 date of this decision.

19 If Respondent fails to pass said examination within the time period provided or
20 within two attempts, Respondent shall so notify the Board and shall cease practice until
21 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,
22 and has been notified by the Board that he may resume practice. Failure to pass the required
23 examination no later than 100 days prior to the termination of probation shall constitute a
24 violation of probation.

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1 Notwithstanding any other provision of this probation, failure to take and pass this
2 examination within five years of the effective date of this order constitutes a separate cause for
3 discipline of Respondent's license.

4 13. **Cost Reimbursement.** Respondent shall reimburse the Board \$ 2,617.66
5 for its investigation and prosecution costs. The payment shall be made within six (6) months of
6 the date the Board's decision is final.

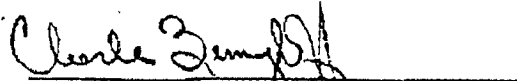
7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and
9 have fully discussed it with my representative, Nancy L. Benninghoff. I understand the
10 stipulation and the effect it will have on my CPA certificate. I enter into this Stipulated
11 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
12 bound by the Decision and Order of the California Board of Accountancy.

13 DATED: 2/16/05

14 
15 MARK STEVEN GOLDSTEIN
Respondent

16 DATED: 2-10-05

17 
18 CHARLES BENNINGHOFF
Representative for Respondent

19
20 ENDORSEMENT

21 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
22 submitted for consideration by the California Board of Accountancy of the Department of
23 Consumer Affairs.

24 DATED: 3/4/05

25 **BILL LOCKYER, Attorney General**
of the State of California

26 
27 MARC D. GREENBAUM
Deputy Attorney General

28 Attorneys for Complainant

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Exhibit A
Accusation No. AC-2004-8

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MARK STEVEN GOLDSTEIN
P.O. Box 2259
Manhattan Beach, CA 90267-2259

A C C U S A T I O N

Certified Public Accountant Certificate No. CPA
33368

Respondent.

Complainant alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

2. On or about December 4, 1981, the California Board of Accountancy issued Certified Public Accountant Certificate No. CPA 33368 to Mark Steven Goldstein (Respondent). The certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 1, 2004, unless renewed.

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JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 490 of the Code provides, in part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. Section 5100 states:

"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

"(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

"(j) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information."

6. Section 5060 states:

....

"(b) No person or firm may practice public accountancy under any name other than the name under which the person or firm holds a valid permit to practice issued by the board."

7. Section 5107 of the Code provides, in part, that the Board may request the administrative law judge, as part of the proposed decision in a disciplinary proceedings, to direct any holder of a permit or certificate found in violation of section 5100 (a) or (j), to pay to the Board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of a Crime)

3 8. Respondent is subject to disciplinary action pursuant to section 5100(a) of
4 the Code and section 490 of the Code in that Respondent was convicted of a crime substantially
5 related to the qualifications, functions or duties of a Certified Public Accountant as follows:

6 a. On December 18, 2002, Respondent was convicted on a plea of guilty, of
7 one count of violating section 1343 of the United States Code (wire fraud) in the United States
8 District Court, Central District of California, Case No. SA CR 02 145 GLT, entitled *United*
9 *States of America v. Mark Goldstein*.

10 b. The circumstances surrounding the conviction are that beginning on a date
11 unknown and continuing to in or about January 21, 1998, Respondent devised, participated in,
12 and executed a scheme to defraud lenders and HUD and to obtain money and property by means
13 of materially false and fraudulent pretenses, representations and promises.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Failure to Register)

16 9. Respondent is subject to disciplinary action pursuant to section 5060 of the
17 Code in that from at least January 18, 1994 to February 20, 2003, Respondent failed to register
18 his public accountancy firm name of Mark S. Goldstein, CPA, Inc. with the Board.

19 **THIRD CAUSE FOR DISCIPLINE**

20 (False Information)

21 10. Respondent is subject to disciplinary action pursuant to section 5100(j) of
22 the Code in that Respondent signed documents stating that he did not provide the down payment
23 to buyers, when in truth in fact, he did, as set forth above in paragraph 8(b).

24 **PRAYER**

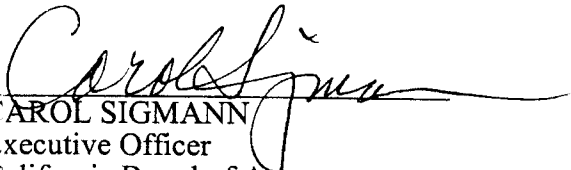
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein
26 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

27 1. Revoking, suspending or otherwise imposing discipline upon Certified
28 Public Accountant Certificate No. CPA 33368, issued to Mark Steven Goldstein;

1 2. Ordering Mark Steven Goldstein to pay the California Board of
2 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
3 Business and Professions Code section 5107;

4 3. Taking such other and further action as deemed necessary and proper.

5 DATED: February 3, 2004
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8 
9 CAROL SIGMANN
10 Executive Officer
11 California Board of Accountancy
12 Department of Consumer Affairs
13 State of California
14 Complainant
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Respondent.

Case No. AC-2004-8

OAH No. L-2004030251

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 22, 2005.

It is so ORDERED March 23, 2005.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS